

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JEFFREY D. MCDONALD,

Plaintiff,

v.

GENA JONES, *et al.*,

Defendants.

Case No. 2:24-cv-2545-JDP (P)

ORDER; FINDINGS AND
RECOMMENDATIONS

Plaintiff, a state inmate proceeding pro se, has filed a first amended complaint and a motion for preliminary injunction. For the reasons outlined below, I will dismiss the complaint for failure to state a claim and recommend that plaintiff's motion for injunctive relief be denied.

I. Screening Order

A. Screening and Pleading Requirements

A federal court must screen the complaint of any claimant seeking permission to proceed *in forma pauperis*. See 28 U.S.C. § 1915(e). The court must identify any cognizable claims and dismiss any portion of the complaint that is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. *Id.*

1 A complaint must contain a short and plain statement that plaintiff is entitled to relief,
 2 Fed. R. Civ. P. 8(a)(2), and provide “enough facts to state a claim to relief that is plausible on its
 3 face,” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The plausibility standard does not
 4 require detailed allegations, but legal conclusions do not suffice. *See Ashcroft v. Iqbal*, 556 U.S.
 5 662, 678 (2009). If the allegations “do not permit the court to infer more than the mere
 6 possibility of misconduct,” the complaint states no claim. *Id.* at 679. The complaint need not
 7 identify “a precise legal theory.” *Kobold v. Good Samaritan Reg’l Med. Ctr.*, 832 F.3d 1024,
 8 1038 (9th Cir. 2016). Instead, what plaintiff must state is a “claim”—a set of “allegations that
 9 give rise to an enforceable right to relief.” *Nagrampa v. MailCoups, Inc.*, 469 F.3d 1257, 1264
 10 n.2 (9th Cir. 2006) (en banc) (citations omitted).

11 The court must construe a pro se litigant’s complaint liberally. *See Haines v. Kerner*, 404
 12 U.S. 519, 520 (1972) (per curiam). The court may dismiss a pro se litigant’s complaint “if it
 13 appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which
 14 would entitle him to relief.” *Hayes v. Idaho Corr. Ctr.*, 849 F.3d 1204, 1208 (9th Cir. 2017).
 15 However, “‘a liberal interpretation of a civil rights complaint may not supply essential elements
 16 of the claim that were not initially pled.’” *Bruns v. Nat’l Credit Union Admin.*, 122 F.3d 1251,
 17 1257 (9th Cir. 1997) (quoting *Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982)).

18 **B. Analysis**

19 Plaintiff purports to bring this case on his behalf and on behalf of thirty-eight other
 20 similarly situated inmates. *See* ECF No. 8 at 2-3. The class purports to have identical
 21 constitutional claims against defendant sergeant M. Moreno. *Id.* at 11-13. Specifically, it is
 22 alleged that defendant has violated these individuals’ First Amendment rights by retaliating
 23 against them, chilling their ability to file grievances, and filing false Rules Violations Reports. *Id.*
 24 at 5-6. It is also alleged that plaintiff has discriminated against these individuals due to their race,
 25 religion, and sexual identity. *Id.* at 7. Finally, it is alleged that defendant has violated these
 26 individuals’ due process rights by authoring false RVRs that kept certain plaintiffs incarcerated
 27 for a longer than necessary. *Id.* at 9.

1 The complaint must be dismissed because plaintiff, proceeding pro se, can only prosecute
2 claims on his own behalf. *See Simon v. Hartford Life, Inc.*, 546 F.3d 661, 664 (9th Cir. 2008).
3 Plaintiff cannot bring claims on behalf of other inmates. *See Welch v. Terhune*, 11 F. App'x 747,
4 747 (9th Cir. 2001) (holding that the inmate-plaintiff could not prosecute a class action on behalf
5 of other inmates).

6 Accordingly, plaintiff's complaint is dismissed for failure to state a claim. I will allow
7 plaintiff a chance to amend his complaint before recommending that this action be dismissed. If
8 plaintiff decides to file an amended complaint, the amended complaint will supersede the current
9 one. *See Lacey v. Maricopa Cnty.*, 693 F.3d 896, 907 n.1 (9th Cir. 2012) (en banc). This means
10 that the amended complaint will need to be complete on its face without reference to the prior
11 pleading. *See E.D. Cal. Local Rule 220*. Once an amended complaint is filed, the current one no
12 longer serves any function. Therefore, in an amended complaint, as in the original, plaintiff will
13 need to assert each claim and allege each defendant's involvement in sufficient detail. The
14 amended complaint should be titled "Second Amended Complaint" and refer to the appropriate
15 case number. If plaintiff does not file an amended complaint, I will recommend that this action
16 be dismissed.

17 **II. Injunctive Relief**

18 Plaintiff seeks an injunction on his behalf and on behalf of the purported class to remove
19 defendant from working in the "EI-unit" at California Health Care Facility. ECF No. 9 at 13. In
20 addition to plaintiff's statements, he has included the declarations of several other inmates that
21 describe defendant's allegedly unconstitutional actions. *See id.* at 23, 29, & 31.

22 "A preliminary injunction is 'an extraordinary and drastic remedy, one that should not be
23 granted unless the movant, by a clear showing, carries the burden of persuasion.'" *Lopez v.*
24 *Brewer*, 680 F.3d 1068, 1072 (9th Cir. 2012) (quoting *Mazurek v. Armstrong*, 520 U.S. 968, 972
25 (1997) (per curiam)); *see also Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008)
26 (citation omitted) ("[a] preliminary injunction is an extraordinary remedy never awarded as of
27 right"). Nonetheless, "federal courts must not shrink from their obligation to enforce the
28 constitutional rights of all persons, including prisoners," and must not "allow constitutional

1 violations to continue simply because a remedy would involve intrusion into the realm of prison
2 administration.” *Porretti v. Dzurenda*, 11 F.4th 1037, 1047 (9th Cir. 2021) (citation omitted).

3 A plaintiff seeking a preliminary injunction must show: (1) he is likely to succeed on the
4 merits; (2) he is likely to suffer irreparable harm in the absence of injunctive relief; (3) the
5 balance of equities tips in his favor; and (4) an injunction is in the public interest. *Winter*, 555
6 U.S. at 20. The “balance of equities” concerns the burdens or hardships to a prisoner complainant
7 compared with the burden on the government defendants if an injunction is ordered. *Id.* The
8 public interest mostly concerns the injunction’s impact on nonparties. *Id.* (citation omitted).
9 Regardless, “[i]t is always in the public interest to prevent the violation of a party’s constitutional
10 rights.” *Id.* (citation omitted).

11 Where a plaintiff seeks a mandatory injunction, rather than a prohibitory injunction,
12 injunctive relief is “subject to a higher standard” and is “permissible when ‘extreme or very
13 serious damage will result’ that is not ‘capable of compensation in damages,’ and the merits of
14 the case are not ‘doubtful.’” *Hernandez v. Sessions*, 872 F.3d 976, 999 (9th Cir. 2017) (quoting
15 *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d 873, 879 (9th Cir. 2009)).
16 Further, under the Prison Litigation Reform Act, which applies here, injunctive relief must be
17 narrowly drawn and must be the least intrusive means necessary to correct the harm. 18 U.S.C.
18 § 3626(a)(2); *see Gilmore v. People of the State of Cal.*, 220 F.3d 987, 999 (9th Cir. 2000).

19 Plaintiff has identified the requisite factors set forth in *Winter*, 555 U.S. 7, but, since he
20 has yet to plead a colorable claim for relief, this court lacks the authority to grant him injunctive
21 relief. *See Thomas v. Chu*, No. 3:20-cv-00245-GPC-BGS, 2020 WL 5408944, at *10 (S.D. Cal.
22 Sept. 9, 2020) (noting that, having dismissed the complaint pursuant to 28 U.S.C. § 1915(e)(2)
23 and § 1915A(b), the plaintiff had “necessarily failed to show, for purposes of justifying
24 preliminary injunctive relief, any likelihood of success on the merits of his claims”) (collecting
25 cases).

Accordingly, it is ORDERED that:

1. Plaintiff's first amended complaint, ECF No. 8, is DISMISSED with leave to amend.

2. Within thirty days from service of this order, plaintiff shall file either (1) an amended complaint or (2) notice of voluntary dismissal of this action without prejudice.

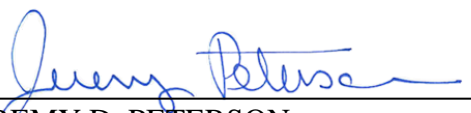
3. The Clerk of Court is directed to assign a district judge to this action.

Further, it is hereby RECOMMENDED that plaintiff's motion for preliminary injunctive relief, ECF No. 9, be DENIED.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days of service of these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Any such document should be captioned "Objections to Magistrate Judge's Findings and Recommendations," and any response shall be served and filed within fourteen days of service of the objections. The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. *See Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

IT IS SO ORDERED.

Dated: May 9, 2025


JEREMY D. PETERSON
UNITED STATES MAGISTRATE JUDGE